HON'BLE SHRI G.S. SINGHVI, THE CHIEF JUSTICE

WRIT PETITION No.5840 of 1994

Between:

D. Narayana. … Petitioner

and

The General Manager,
District Co-operative Central Bank Ltd.,
Vizaianagram and another. … Respondent

: O R D E R :

Counsel for the Petitioner : Sri V. Srinivas
for Sri V. Venkata Ramana

Counsel for respondents : Ms. Umadevi
for Sri K. Srinivasasmurty

Dated: 22nd August, 2006

This petition is directed against order dated 26.12.1992 passed by Industrial Tribunal-cum-Labour Court, Visakhapatnam whereby the application filed by the petitioner under Section 33-C (2) of the Industrial Disputes Act, 1947 (for short 'the Act') for payment of wages and other monetary benefits for the period from 15.6.1977 to 16.7.1980 was dismissed.

The petitioner joined service of the District Co-operative Central Bank Limited, Vizainagram (for short, 'the Bank') as a Clerk in February, 1960. While he was holding the post of Supervisor, the competent authority of the Bank placed him under suspension vide order dated 30th April, 1970. After some time, a departmental enquiry was instituted against him on the charge of misappropriation of funds. The enquiry officer submitted report dated 24.6.1976 with the finding that the allegation of misappropriation of funds has been proved against the delinquent. The management of the Bank accepted the enquiry report and dismissed the petitioner from service with effect from 16.7.1980. Appeal filed by the petitioner against the order of punishment was rejected by the board of management. He then filed an appeal under Section 41 of the A.P. Shops and Establishments Act, 1966 (for short, 'the Act'). The same was allowed by Assistant Labour Commissioner, Vizainagaram, (for short, 'the Assistant Commissioner') vide his order dated 10-8-1981. The Assistant Commissioner set aside the punishment of dismissal and ordered reinstatement of the petitioner with continuity of service and other attendant benefits. The management of the Bank unsuccessfully challenged the order of

petitioner's reinstatement by filing further appeal before Labour Court, Guntur and then by filing writ petition under Article 226 of the Constitution.

As a sequel to dismissal of the writ petition filed by it, the management of the bank reinstated the petitioner with effect from 19.12.1986. After joining duty, the petitioner lodged his claim for payment of back wages. The management of the bank did not accede to his request. He then filed an application under section 33-C (2) of the Act. In his application, the petitioner pleaded that he is entitled to full back wages because order of punishment had been nullified by the Assistant Commissioner and he was reinstated with continuity of service and attendant benefits. In the counter filed on behalf of the Bank, it was pleaded that the petitioner is not entitled to back wages because no such direction was given by the Assistant Commissioner.

On a consideration of the pleadings of the parties and arguments of their advocates, the Presiding Officer, Industrial Tribunal-cum-Labour Court, Visakhapatnam dismissed the application by holding that in the absence of a specific direction for payment of back wages in the award made by the Assistant Commissioner, the petitioner cannot claim back wages. The learned Presiding Officer placed narrow construction on the expression 'attendant benefits' used in the order of the Assistant Commissioner and held that the same does not comprehend back wages.

Sri Vedula Srinivas, learned counsel for the petitioner very fairly stated that in view of the recent decisions of the Supreme Court in **A.P. State Road Transport Corporation v. S. Narsagoud**[1], **A.P.S.R.T.C and others v. Abdul Kareem**[2] and **Rajasthan State Road Transport Corporation and others vs. Shyam Bihari Lal Gupta**[3],

he is not in a position to successfully assail the order under challenge.

The fair statement made by the learned counsel for the petitioner is commendable.

In the judgments referred to above, the Supreme Court held that an order of reinstatement does not necessarily impose an obligation on the employer to pay back wages to the employee and the employer is not obliged to pay full back wages to the employee unless there is a specific order of reinstatement with continuity of service and back wages.

In the result, the writ petition is dismissed.

22nd August, 2006 **G.S. SINGHVI, CJ**

vtv

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[1] (2003)2 SCC 212

[2] (2005)6 SCC 36

[3] (2005)7 SCC 406